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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,054	08/20/2001	Richard Horn	ZTP 99 P 4011	6717

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/933,054

Applicant(s)

HORN ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,12-14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,12-14 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

Claims 1, 3, 12-14, and 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Recitations such as "like" on line 11 of claim 1 render the claims indefinite because it is a relative term. It is unclear how much like a groove an element must be before it can be referred to as a "groove-like". Recitations such as "receptacle engaging" on line 13 of claim 1 render the claims indefinite because it is unclear what element of the invention the second groove is engaging. Recitations such as "a plastic profile" on line 2 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the plastic profile set forth above or is attempting to set forth another plastic profile in addition to the one set forth above. Recitations such as "a receptacle" on line 2 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the undercut set forth above or is attempting to set forth another element of the invention in addition to the undercut. Recitations such as "said receptacle" on line 7 of claim 3 render the claims indefinite because it is unclear to which one of the plurality of receptacles set forth above the applicant is referring.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 12-14, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Monti (US Patent No. 3,126,590). Monti discloses a refrigerator door comprising: an outer paneling 16 having a free edge portion (not numbered, but shown in figure 3) and being made from a metallic material as shown by the cross sectional shading in figure 3; an inner paneling 20 having an edge portion (not numbered, but shown in figure 3) and being made from metallic material as shown by the cross sectional shading in figure 3, said inner paneling spaced from said outer paneling, and said free edge portion and said edge portion being offset from one another in parallel planes; a thermal insulation layer (not numbered, but shown in figure 3), said thermal insulation layer being disposed between said outer paneling and said inner paneling; a thermally insulating couple 50 being a fastening element of a door seal and connecting the edge portion to said free edge portion, said couple substantially thermally uncoupling the edge portion from the free edge portion, the thermally insulating couple comprising a plastic profile (see column 2, lines 65-66) including a first holding end forming a first groove-like receptacle 84 engaging the free edge portion, a second holding end forming a second groove like receptacle 60 engaging, and an undercut receiving groove 66 disposed between the first and second holding ends as shown in figure 3, and a magnetic seal 40 including a seal foot 68 projecting outwardly from the magnetic seal and engaging the undercut receiving groove of the plastic profile. It should be noted that the process limitations set forth in claims 1, 12-14, and 16-19 have

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been treated as product-by-process limitations and are, accordingly, anticipated by the product as set forth in the rejection above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 12-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasqualini et al. (Patent No. 4,617,759) in view of McAlarney (Patent No. 4,138,049). Pasqualini et al., in figure 4, discloses a refrigerator door comprising: an outer paneling 16 having a free edge portion (not numbered, but shown in figure 4) and being made from a metallic material (see column 3, line 11); an inner paneling 17 having an edge portion (not numbered, but shown in figure 4) and being made from a plastic material, said inner paneling spaced from said outer paneling; said free edge portion and said edge portion being offset from one another in vertical parallel planes, a thermal insulation layer (not shown, but see column 1, lines 50-55), said thermal insulation layer being disposed between said outer paneling and said inner paneling; a thermally insulating couple 1 being a fastening element of a door seal and connecting the edge portion to said free edge portion, said couple substantially thermally uncoupling the edge portion from the free edge portion, the thermally insulating couple comprising a plastic profile (see column 2, line 54) including a first holding end 9

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forming a first groove-like receptacle 10 engaging the free edge portion, a second holding end 19 forming a second groove like receptacle 20 engaging, and an undercut receiving groove 7 disposed between the first and second holding ends as shown in figure 4, and a magnetic seal 11 including a seal foot 12 projecting outwardly from the magnetic seal and engaging the undercut receiving groove of the plastic profile.

Pasqualini et al. is silent concerning a metal inner panel.

However, McAlarney teaches a refrigerator door having an outer panel 8 made from steel and an inner panel made of metal (see figure 1 and column 3, lines 1-3 and 26-27).

It would have been obvious to one of ordinary skill in the art to provide the inner panel of Pasqualini et al. with a steel metal construction, as taught by McAlarney, in order to prevent/reduce thermally induced relative movement between the inner panel and outer panel and to improve the aesthetics of the inner panel while increasing the strength of the door.

It should be noted that the process limitations set forth in claims 1 and 12-14 have been treated as product-by-process limitations and are, accordingly, anticipated by the product as set forth in the rejection above.

Response to Arguments

Applicant's arguments filed October 23, 2006 have been fully considered but they are not persuasive.

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With respect to the applicant's comments concerning Monti, the examiner respectfully disagrees. Monti discloses an undercut receiving groove 66 as shown in figure 2. Since the groove 66 is positioned to the right of at least a portion of the receptacle 60 and is positioned to the left of at least a portion of the receptacle 84 as shown in figure 2, the groove 66 is disposed between the first and second holding ends. With respect to the applicant's comments concerning the combination of the teachings of Pasqualini et al. in view of McAlarney, the examiner respectfully disagrees. With respect to the applicant's arguments concerning the motivation to combine the references of record, the examiner respectfully disagrees. The rationale to modify or combine the prior art does not have be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Since the applicant has failed to address the reasoning/rationale supplied by the examiner as to why the modification would have been obvious, the applicant's arguments are not persuasive. The applicant's comments regarding the assembly process of Pasqualini et al. are mere supposition and are accordingly not persuasive. The press snap fit assembly process of Pasqualini et al. would be the same whether the inner panel is made from plastic or metal. Additionally, the teachings of McAlarney are merely used to show that forming an inner panel of a refrigerator door from metal is known in the art. Therefore, it would be well within the purview of one with ordinary skill

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in the art to replace one well know material, plastic, with another well known material, metal.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
January 11, 2007